

Memo Date: May 3, 2007
Hearing Date: May 22, 2007



TO: Board of County Commissioners

DEPARTMENT: Public Works Dept./Land Management Division

PRESENTED BY: BILL VANVACTOR, COUNTY ADMINISTRATOR
KENT HOWE, PLANNING DIRECTOR

AGENDA ITEM TITLE: In the Matter of Considering a Ballot Measure 37 Claim and Deciding Whether to Modify, Remove or Not Apply Restrictive Land Use Regulations in Lieu of Providing Just Compensation (PA06-6248, Mosby1)

BACKGROUND

Applicant: Mosby Family Trust

Current Owner: Mosby Family Trust

Agent: Mark Haneberg

Map and Tax lot(s): 20-03-36, #1600, #1800, #1900 and 21-03-01-20, #700 and 21-02-06, #300

Acreage: 208 acres

Current Zoning: #300: F-2 (Impacted Forest Land),
Remainder: E-40 (Exclusive Farm Use)

Date Property Acquired:

#300 – acquired by James Mosby, July 16, 1959 (BSD 73329)

#700 – acquired by James Mosby, May 26, 1965 (WD 8109470)

#1600 & #1800 – acquired by James Mosby, July 16, 1959 (BSD 73329)

#1900 – acquired by John Mosby, May 26, 1965 (WD 8109470)

Date claim submitted: July 5, 2006

180-day deadline: January 1, 2007

Land Use Regulations in Effect at Date of Acquisition: unzoned

Restrictive County land use regulation: Minimum parcel size of forty acres and limitations on new dwellings in the E-40 (Exclusive Farm Use) zone (LC 16.212) and minimum parcel size of 80 acres and limitations on new dwellings in the F-2 (Impacted Forest Land) zone (LC 16.211).

ANALYSIS

To have a valid claim against Lane County under Measure 37 and LC 2.700 through 2.770, the applicant must prove:

1. Lane County has enacted or enforced a restrictive land use regulation since the owner acquired the property, and

The current owner is the Mosby Family Trust. James and John Mosby acquired the various properties at various times in 1959 or 1965 when the properties were unzoned. Currently, all of the properties are zoned E-40, except #300 which is zoned F-2.

In 1989 all of the properties were transferred into the Mosby Family Trust, except for #1900. In 1998, #1900 was also transferred to the Mosby Family Trust. The Trust is considered a new owner. The claimant has not provided information on the Trust. We do not know who the beneficiaries and trustees are or if it is revocable. As a result, we do not know if the ownership interest of James and John is continued and must assume the Mosby Family Trust is a new owner.

2. The restrictive land use regulation has the effect of reducing the fair market value of the property, and

The properties were unzoned when they were acquired at the various times by James and John Mosby. However, when the properties were transferred to the Mosby Family Trust, the properties were zoned E-40, except for #300 which was zoned F-2.

The applicant has not submitted competent evidence of a reduction in fair market value from enforcement of a land use regulation and the County Administrator has not waived the requirement for an appraisal.

3. The restrictive land use regulation is not an exempt regulation as defined in LC 2.710.

The minimum lot size and restrictions on new dwellings do not appear to be exempt regulations.

CONCLUSION

It appears this is not a valid claim and the applicant has not paid the processing fee.

RECOMMENDATION

If additional information is not submitted at the hearing, the County Administrator recommends the Board direct him to deny the claim.